

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSITAS EDUCATION, LLC,

Judgment Creditor,

-against-

NOVA GROUP, INC., as trustee, sponsor and
fiduciary of THE CHARTER OAK TRUST
WELFARE BENEFIT PLAN,

Judgment Debtor.
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: Case Nos. 11 CV 1590-LTS-HBP and
: 11-8726-LTS

**DECLARATION OF PAULA K. COLBATH, ESQ. IN SUPPORT
OF UNIVERSITAS' MOTION, PURSUANT TO CPLR 5240,
TO EXTEND THE DURATION OF THE RESTRAINING NOTICES
ISSUED TO THIRD-PARTY GARNISHEES**

PAULA K. COLBATH, an attorney admitted to practice law in the Courts of the
State of New York, declares the following under penalty of perjury pursuant to 28 U.S.C.
§ 1746:

1. I am a partner in the law firm of Loeb & Loeb LLP, attorneys for
Universitas Education, LLC ("Universitas"), the Judgment Creditor in the above-
captioned proceeding. I have personal knowledge of all of the following facts.

INTRODUCTION

2. I respectfully submit this declaration pursuant to Fed. R. Civ. P. 69(a)(1)
and N.Y. C.P.L.R. § 5240 in support of Universitas' Motion, for an Order extending the
expiration date of certain restraining notices served by Universitas on third-party
garnishees, which currently are set to expire on November 30, 2016, until Universitas'
Judgments against Judgment Debtors' Nova Group, Inc., Daniel Carpenter, Grist Mill

Trust Welfare Benefit Plan and any trustees and plan sponsors thereof insofar as they hold Grist Mill Trust assets (“Grist Mill Trust”), Grist Mill Capital, LLC, Grist Mill Holdings, LLC, Carpenter Financial Group, Avon Capital, LLC, Phoenix Capital Management, LLC, and Hanover Trust Company are satisfied in full.

3. Attached as **Exhibit A** are true and correct copies of restraining notices served upon certain third party garnishees.

4. Attached as **Exhibit B** is a true and correct copy of Annual Report/Report of Employee Benefit Plan for Benistar Admin Services, Inc. Employee Stock Ownership Plan.

5. Attached as **Exhibit C** are a true and correct copies of corporate documents for third-party garnishees Caroline Financial Group, Inc., Bestco Benefit Plans, LLC, Benefit Concepts, Inc., and Greyhound Management Inc..

6. Attached as **Exhibit D** is a true and correct copy of excerpted sections of Daniel Carpenter’s deposition testimony, taken on April 13, 2016.

7. Attached as **Exhibit E** is a true and correct copy of the Limited Liability Company Operating Agreement for Nova Partners, LLC and the Tax Return for American Fiduciary Services, Inc.

8. Attached as **Exhibit F** is a true and correct copy of a complaint filed in the United States Western District of Washington, styled *Graham-Bingham Irrevocable Trust v. Trudeau and Greenwich Bay Management, LLC*, No. 2:12-cv-00755-RAJ.

9. Attached as **Exhibit G** is a true and correct copy of is a true and correct copy of Judgment Debtor Grist Mill Trust’s Cash Disbursement Journals, showing

payments to Wormser, Kiely, Galef & Jacobs, bearing Bates numbers GMT-000579-000593.

10. Attached as **Exhibit H** is a true and correct copy of excerpted pages of motion papers filed in the Commonwealth of Massachusetts showing that Foley & Lardner LLP (with offices in New York) as counsel for Boston Property Exchange Trust Company.

11. Attached as **Exhibit I** is a true and correct copy of bank statements for Judgment Debtor Avon Capital LLC from TD Bank showing banking deposits to H. Thomas Moran (prior owner of SDM Holdings) and Asset Servicing Group, bearing Bates numbers TD-Universitas 0135-0154.

12. Attached as **Exhibit J** is a true and correct copy of a letter from Ameritas Life Insurance to Loeb & Loeb LLP identifying policies owned by Judgment Debtor Grist Mill.

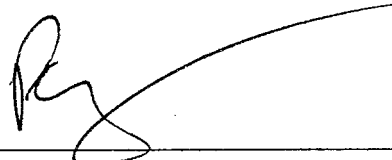
13. Universitas, through its undersigned counsel, certifies pursuant to the Court's Individual Practice Rules that it has used its best efforts to informally resolve the matters raised herein. By email dated November 16, 2016, Universitas' counsel informed Judgment Debtors' counsel that it planned to come to Court and seek an order to show cause with temporary restraining order. No one informed the undersigned that they planned to oppose this application.

14. By Order dated November 12, 2015 (Dkt. 588), this Court granted an extension until November 30, 2016 of certain restraining notices (referred to as the Group One garnishees in the accompanying Memorandum of Law). At the time of the Order, the Honorable Laura Taylor Swain stated that the November 30, 2016 extension was

“without prejudice to applications for additional extension.” Dkt. 588 at ¶ 5. Aside from the Group One garnishees, no prior application for the relief sought has been made to this Court with regard to the balance of the restraining notices (referred to as the Group Two garnishees in the accompanying Memorandum of Law).

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
November 17, 2016



PAULA K. COLBATH

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